

**IN THE UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF OHIO,  
WESTERN DIVISION**

United States of America,

Plaintiff,

v.

Brandon Michael Johnson,

Defendant.

Case No. 3:21-cr-0418

Judge James G. Carr

**ORDER**

Pending is the Defendant's Motion to Appoint Counsel/Motion to Reduce Sentence under Amendment 821 to the United States Sentencing Guidelines. (Doc. 24). In accordance with this Court's Order, after filing the Motion *pro se*, the matter was referred to the Federal Public Defender's Office (FPD) for review. N.D. Ohio General Order 2023-20, ¶I (11/21/2023). Under this Order, the FPD has the right to file a supplemental motion in support of a *pro se* defendant's request. *Id.* ¶V. The FPD filed a Notice of No Intent to Supplement (Doc. 26). The Government filed a Response in Opposition. (Doc. 27).

For the reasons that follow, I deny the Defendant's Motion.

**Background**

On April 25, 2022, Defendant, pled guilty to two Counts of Felon in Possession. (Doc. 14). At the time of sentencing, Defendant's Total Offense Level was a 21. (Doc. 16, pgID 96). With eighteen (18) Criminal History Points, his Criminal History Category was a VI. (*Id.* at 112). This put Defendant's Guideline Range at 77-96 months. (*Id.* at 119). Defendant was sentenced to the minimum of the Range (77 months) on August 22, 2022. (Doc. 20).

**Discussion**

In Part A of Amendment 821 to the Sentencing Guidelines, the Sentencing Commission altered the “status points” provision regarding criminal history, which now appears in Section 4A1.1(e). The amended provision provides for one (versus two) status point for those with seven or more points and zero (versus one) points for those presenting with six or under.

Though Defendant seeks relief under this change, he would still have seventeen (17) criminal history points; thus, his Criminal History Category remains unchanged. Therefore, Defendant is not eligible for relief under Amendment 821.

### **Conclusion**

Simply put, Amendment 821 does not affect Defendant’s Guideline Range. Even with the one-point reduction, his Criminal History Category remains a VI and his Guideline Range 77-96 months.

For the foregoing reasons, it is hereby

ORDERED THAT:

The Defendant’s Motion to Reduce Sentence (Doc. 24) be, and the same hereby is, **denied**.

So ordered.

DATE: 7/10/2024

/s/ James G. Carr  
Sr. U.S. District Court Judge